

BECKER FIGHTS IN VAIN WITH COUNSEL TO GO ON STAND

concerning the prisoner's contention that Rose, Webber, Vallon and Scheppe had conspired to "frame" Becker for the Rosenthal murder.

After a brief delay the runty, broad-shouldered Sullivan came into court, grinning to right and left and whispering out of the side of his mouth at several friends he recognized in the courtroom throng. As he mounted the stand and flung himself into the witness chair he turned a broad grin on Justice Goff.

SULLIVAN'S GRIN DISPLEASES THE COURT.

The Court did not like Sullivan's grin, nor his attitude and set out at once to subdue and tame the witness. The Court lectured Sullivan at length and warned him that he would be punished if he repeated his former exhibition of bluster and rage on the stand.

"But I oughter be"—started Sullivan, when a warning frown and a tap of the gavel stopped him.

He was tamed and continued in a state of subjugation throughout his new and startling testimony for Becker. He swore to the plot to "frame" Becker and described a dozen conversations he had with Rose and Webber, while, as he alleged, they were urging him to join in helping the District Attorney to convict the accused policeman. He swore Webber had offered him \$25,000 if he would corroborate Rose and himself (Webber); that he was asked to name his price and told that as a Jew he should join them against such avowed Jew-haters as "that Dutch"—Becker.

TELLS OF WEBBER'S GRUESOME WISH.

This was from the lips of Webber, according to the witness. There was much more concerning Webber's hatred of Rosenthal and Webber's statements that he "would like to lie down beside Rosenthal in his grave." There was profanity in almost every other sentence and there were picturesque descriptions that broke up the order of the court more than once.

And in conclusion Sullivan got on the record that Assistant District Attorney Moss sent him a threatening letter. The eager witness blurted this out while Justice Goff was waving him from the stand. As he left the gloom of the defense had entirely dissipated and John W. Hart wore a broad smile.

A notable feature of the testimony at the morning session was that of Police Officer Foye, who declared he had heard Webber upbraid Rosenthal, and that Jack Rose had threatened to shut up the witness for ever. On cross-examination Foye got badly mixed and was forced to admit he had not mentioned these threats when he called on Mayor Gaynor after the murder.

Becker's statement that he was in the company of Sullivan at the time the stand was issued just before the trial was resumed. It said:

"I am willing and anxious to take the stand. I think my testimony would clarify the atmosphere and put the jury in a better position to gauge the evidence of Rose, Scheppe, Vallon and Webber at its proper value. I am sorry that Justice Goff would not admit in evidence Mr. Moss's letter to Jack Sullivan. That would have helped somewhat."

"As I have said heretofore, I will take the stand if given an opportunity, but I am not a lawyer and will only do so with Mr. McIntyre's consent."

BECKER IN EXCITED TALK WITH COUNSEL.

The defendant arrived at his place at the prisoner's table twenty minutes before the arrival of Justice Goff and was soon engaged in an earnest and excited conference with his lawyers. Twice he called his wife from her secluded seat in the rear of the tribunal to join in the confab. John F. McIntyre was the last to arrive in court and join in the discussion. Mr. McIntyre had been in consultation with the attorneys for Jack Sullivan and Chauffeur Shapiro in an adjoining room, and he came to his seat looking flushed and angry. Becker at once called him to his side and then beckoned to Mr. Becker to join them.

It was stated after the conference that Becker had continued to demand permission to take the stand.

Justice Goff convened court at 12:30, whereupon Mr. McIntyre moved for the return of the records of the Kings County Court, proving that the people's witness, Morris Luban, had been convicted of felony.

Assistant District Attorney Moss objected to the introduction of this evidence on the ground that the conviction of Luban had been set aside by Judge Dike, before whom Luban had been tried.

GETS RECORD OF CONVICTION BEFORE THE JURY.

Justice Goff permitted the record to be in evidence upon the agreement that it should be stated in addition that the conviction had been set aside. Mr. McIntyre then read the record, which stated that Luban had been convicted of forgery in the second degree and that Judge Dike had refused to permit the verdict to stand.

This testimony disposed of, Police Officer John J. Dougherty, who had been one of Becker's strong arm raiders, was called and added to the evidence already introduced concerning the Rosenthal raid last April. This police witness corroborated his brother policeman concerning Mr. Rosenthal's request to Becker to arrest her nephew, Herbert Hull. Dougherty put the same words in Mrs. Rosenthal's mouth that she was alleged to have uttered in the presence of half a dozen other policemen.

Mr. Hart got on the witness that he had not seen Margolia, the tipster who swore for the District Attorney that the raid was a "fake," and that Becker's men had never been in the place to get the evidence they swore to in their affidavits. Dougherty saw Margolia had accompanied the widow witness. Q. (By Mr. Hart)—How long have you known Becker, Shepherd, Steinert and White? A. About a year.

Q. Been on several raids with them? A. Yes, sir.

DENIES JACK ROSE'S STORY OF DINNER WITH BECKER.

That ended Dougherty, and John B. Maher, a theatrical manager and once chief deputy of detectives in the District Attorney's office, testified he was with Becker at 6:30 o'clock on the night of July 7, spending the time on Second and Third avenues and then at Luchow's, where they had dinner with Magistrate McQuade, leaving Becker at 9 o'clock. Rose was not present.

This was the night Scheppe and Rose swore they had dined with Becker at Luchow's after the Rosenthal murder. How long have you known Becker, Shepherd, Steinert and White? A. About a year.

A. I told quite a few policemen. Q. Did you go to the Mayor's office with Lieut. Becker? A. Yes, sir. Q. Did you then tell his Honor of the threat Rose had made only a few days before the murder? A. No.

DIDN'T VOLUNTEER INFORMATION TO GAYNOR.

Q. Didn't you tell his Honor the Mayor? A. No. Mayor Gaynor told me he wanted me to answer questions he would put to me. I did not volunteer any information to the Mayor.

Q. Well, if you thought the District Attorney's office was trying to make murderers out of all policemen, did you tell all your brother officers they ought to stand together for Lieut. Becker? A. No, sir.

Q. Did you tell all policemen they ought to give testimony for Lieut. Becker? A. No.

Q. Did you know Lieut. Shear? (One of Becker's strongest witnesses.) A. Yes.

Q. Did he ever tell you he was going to testify for Becker? A. No, sir.

Q. What were you doing in Rosenthal's house in February, when you say you heard Mrs. Rosenthal order Webber from her house? Were you looking for evidence? A. No, sir.

Q. Yet you were a police officer? A. Yes.

Q. Were you there on business? A. Yes.

Q. Police business? A. No.

Q. Private business? A. Yes.

Q. Did you know Rosenthal was a reputed gambler? A. Yes.

Q. Did you know his house was a reputed gambling house? A. Not then.

Q. Did you ever talk to Becker about your visit to Rosenthal's house? A. Yes. He said he had heard I was associating with gamblers, and I told him why I had gone there.

On redirect examination Mr. Hart asked:

Q. What was your private business at the Rosenthal house? A. At that time my wife, Mrs. Foye, was running a hairdressing establishment and Mrs. Rosenthal was a customer.

SWears TO GOOD CHARACTER OF LIEUT. BECKER.

The sensational testimony of Police Officer Foye was followed by the character evidence of Ben Moses of No. 21 Park Row. Mr. Moses came up smiling and continued to grin until Mr. Moss asked him to testify.

Q. Did you ever hear any one proclaim Lieut. Becker's reputation for peace and quiet? A. No.

Q. Did you ever hear that Lieut. Becker used force and brutality in his raids? A. I don't always believe what I read in the newspapers.

Q. You never heard that this defendant was charged with using force? A. No, and I wouldn't have believed it if I had heard it.

This was all for the smiling Ben Moses, and Michael L. Deloit, an attorney-at-law, was called. He swore that Becker had not paid a cent toward the defense of his (Becker's) alleged press agent, Charlie Plitt, when Plitt was on trial on a charge of murder in General Beeson's court.

Mr. Hart sought in vain to bring out that Rose was Becker's stool pigeon. The Court would not allow the witness to testify of conversations he had overheard between Vallon and Rosenthal.

"Did Rose ever offer to take you into gambling houses so that you, as a police officer, could secure evidence against gambling houses?"

Objections sustained.

To show Rose, Vallon and Webber's hostility to Rosenthal, the defense was permitted to ask:

Q. Shortly before the murder of Rosenthal, did you talk to Rose? A. Yes. About 3 o'clock on the morning of July 10, 11 or 12—just before the murder—I met Rose, Webber and Vallon at the corner of First Avenue and Thirty-third Street.

Q. What did you say to them? A. I said: "Don't Rosenthal a mighty good friend of yours?" I told Rose that Korman was my good friend.

Q. Well, said Rose to me, if Rosenthal is your friend, you go to him and tell him to quit talking. Tell him to keep his mouth shut or I'll shut it for him for keeps."

Q. Did you tell him that? A. Yes.

Q. (On cross-examination) And did you tell any one about that threat of Rose's? A. No.

Q. Why didn't you? A. Well—the witness spluttered indignantly, which brought an explosion from the prosecutor.

Q. Were you anxious to bring the assassins to justice? A. Yes, sir.

Q. Then I suppose you went to Commissioner Waldo and told him that two or three days before the murder you heard Rose say that Rosenthal better keep his mouth shut or it would be shut for him for keeps? A. No.

Foye said he had reported this threat of Rose to Becker. Later he (Foye) went with Becker to Mayor Gaynor.

"Did you tell the Mayor of this threat of Rose's?" cried Mr. Moss.

"No," stammered the witness.

Q. (Savagely)—Why didn't you tell the Mayor? A. Because he didn't ask me.

Q. Why didn't you volunteer this highly important information? A. Because the Mayor told me not to say anything but answers to his questions.

Q. You didn't tell the District Attorney anything about this threat of Rose at any time, did you? A. No.

"Why," shouted Moss.

Q. I thought I thought the District Attorney's office was trying to make it out that all policemen were parties to the murder of Rosenthal, and I didn't like the attitude of the District Attorney."

Q. Whom did you tell of that conversation? A. I think I told Lieut. Becker only.

Q. Well, of course, you went to the Police Commissioner and told him all that that row, didn't you? A. No, I didn't. I thought Lieut. Becker was enough to tell.

Q. Was he then under arrest? A. No, sir.

Q. Well, he was arrested and indicted for murder after that, wasn't he? A. Yes, sir.

Q. Did you then tell any public official whatever of what you had heard? A. No, sir.

Q. Did Becker ask you not to tell any one? A. No.

Q. After he was in prison did you then tell any one of what Rose said?

don't you go through with this thing with us?"

The witness swore that he heard Webber and Rose promise to swear to Sullivan's innocence in a letter to the threat Rose had made only a few days before the murder? A. No.

"They said," continued the witness, "that they would give the District Attorney an affidavit and means too, for Jack, if he would only go in with them."

Q. On Aug. 10 were you present at a conference between your brother "Jack" and Assistant District Attorney Smith? A. Yes. Smith told "Jack" the "fellows upstairs" were his friends and were willing to swear "Jack" was innocent, but that they wanted "Jack" to swear he had seen Becker with them in Forty-second Street after Rosenthal was killed. "Jack" said he could not swear to that, because he hadn't seen Becker there.

Q. Did Rose say to you "Charlie, take that brother of yours to hell out of here?" A. He said that only as a joke.

SAID JACK WAS ACTING LIKE A "BOOB."

Q. Did he refer to your brother as a boob? A. Yes, that is just what he said. Jack was acting like a boob.

Q. Did Webber ask your brother "Jack" to put in an affidavit that he would not be a witness for Becker? A. No, but he asked "Jack" not to be a witness for Becker.

There was no cross-examination of Charlie Reich, as the District Attorney said he regarded his evidence as in the nature of a boomerang for the defense. He believed Reich failed to show that Rose and Webber had tried to force Sullivan to join the State's witnesses against Becker.

The failure by Becker's witnesses to show up caused frequent delays.

LAWYER LEVY CALLED, BUT TESTIMONY IS STRICKEN OUT.

Aaron J. Levy, attorney for Chauffeurs William Shapiro and Louis Libby, was called for a five-minute break.

Q. At any time while you represented Libby or Shapiro did you receive any compensation from Becker? A. I did not. I am sorry to say no one has compensated me for my work.

Q. Did Becker retain you to defend Shapiro and Libby? A. He did not.

The Court—Questions and answers excluded.

Levy was then permitted to leave the witness stand.

A number of witnesses, including Magistrate Appleton and James W. Osborne, were called by the defense, but they failed to respond.

"May it please the Court," said Mr. McIntyre, "these witnesses are all under subpoena to be here to-day. I do not know why they are not here. May I ask for a delay of an hour?"

The Court—Request declined. Call the next witness.

Mr. McIntyre then asked permission to recall witness Samuel Goodman for further examination.

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Duchess of Marlborough Who Is Victim of Appendicitis



DUCHESS OF MARLBOROUGH.

LONDON, Oct. 22.—The Duchess of Marlborough, formerly Consuelo Vanderbilt, who was ordered by her physicians last week to take a month's rest at Harrogate, is about to undergo an operation for appendicitis. The operation was to have taken place yesterday, but was postponed for a few days.

The Duchess was threatened with appendicitis in 1911, but it was decided that an operation was not necessary at that time.

She has been suffering from the disease for some time, and her condition has been very serious.

The Duchess is now at Harrogate, and her physicians are doing all that is possible to relieve her suffering.

The Duchess is a well-known figure in London society, and her illness has attracted much public attention.

The Duchess is now in the hands of her physicians, and it is hoped that she will recover from her illness.

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dred. The men ran to my car and jumped in. One held a revolver in his hand. He put it to my head and ordered me to drive away. Q. How long did it take. A. Thirty to thirty-five seconds.

"Was the name Becker mentioned in your presence by any of those four men?"

Objections sustained.

Q. Have you talked to Jack Sullivan in the tomb? A. Yes.

Q. Mr. Shapiro, after you stopped your car in Forty-third Street and when you started up again, did you see Scheppe and Vallon? A. No, sir.

Q. Isn't it a fact they got in your car and rode away? A. They did not.

Shapiro was excused.

The prosecutor's effort to connect Becker with the murder of Rosenthal through the testimony of Shapiro had failed and it was not apparent that his testimony was of any value to either the people or the defense.

PLITT COMES BACK AT THE ORDER OF GOFF.